

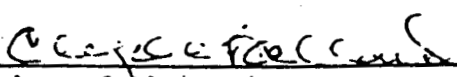


CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2935

55th Legislature
1998 Regular Session

Passed by the House March 12, 1998
Yeas 98 Nays 0



Speaker of the
House of Representatives

Passed by the Senate March 11, 1998
Yeas 47 Nays 0



President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2935** as passed by the House of Representatives and the Senate on the dates hereon set forth.



Chief Clerk

FILED

Secretary of State
State of Washington

proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

4 NEW SECTION. **Sec. 29.** (1) The property component rate allocation
5 for each facility shall be determined by dividing the sum of the
6 reported allowable prior period actual depreciation, subject to RCW
7 74.46.310 through 74.46.380, adjusted for any capitalized additions or
8 replacements approved by the department, and the retained savings from
9 such cost center, by the greater of a facility's total resident days
10 for the facility in the prior period or resident days as calculated on
11 eighty-five percent facility occupancy. If a capitalized addition or
12 retirement of an asset will result in a different licensed bed capacity
13 during the ensuing period, the prior period total resident days used in
14 computing the property component rate shall be adjusted to anticipated
15 resident day level.

16 (2) A nursing facility's property component rate allocation shall
17 be rebased annually, effective July 1st or October 1st as applicable,
18 in accordance with this section and this chapter.

19 (3) When a certificate of need for a new facility is requested, the
20 department, in reaching its decision, shall take into consideration
21 per-bed land and building construction costs for the facility which
22 shall not exceed a maximum to be established by the secretary.

23 (4) For the purpose of calculating a nursing facility's property
24 component rate, if a contractor elects to bank licensed beds or to
25 convert banked beds to active service, under chapter 70.38 RCW, the
26 department shall use the facility's anticipated resident occupancy
27 level subsequent to the decrease or increase in licensed bed capacity.
28 However, in no case shall the department use less than eighty-five
29 percent occupancy of the facility's licensed bed capacity after banking
30 or conversion.

31 (5) The property component rate allocations calculated in
32 accordance with this section shall be adjusted to the extent necessary
33 to comply with section 18 of this act. If the department determines
34 that the weighted average rate allocations for all rate components for
35 all facilities is likely to exceed the weighted average total rate
36 specified in the state biennial appropriations act, the department
37 shall adjust the rate allocations calculated in this section
38 proportional to the amount by which the total weighted average rate

1 allocations would otherwise exceed the budgeted level. S
2 adjustments shall only be made prospectively, not retrospectively.

3 NEW SECTION. Sec. 30. (1) The department shall establish for each
4 medicaid nursing facility a return on investment component rate
5 allocation composed of two parts: A financing allowance and a variable
6 return allowance. The financing allowance part of a facility's return
7 on investment component rate shall be rebased annually, effective July
8 1st, in accordance with the provisions of this section and this
9 chapter.

10 (a) The financing allowance shall be determined by multiplying the
11 net invested funds of each facility by .10, and dividing by the greater
12 of a nursing facility's total resident days from the most recent cost
13 report period or resident days calculated on eighty-five percent
14 facility occupancy. If a capitalized addition or retirement of an
15 asset will result in a different licensed bed capacity during the
16 ensuing period, the prior period total resident days used in computing
17 the financing and variable return allowances shall be adjusted to the
18 anticipated resident day level.

19 (b) In computing the portion of net invested funds representing the
20 net book value of tangible fixed assets, the same assets, depreciation
21 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,
22 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets,
23 shall be utilized, except that the capitalized cost of land upon which
24 the facility is located and such other contiguous land which is
25 reasonable and necessary for use in the regular course of providing
26 resident care shall also be included. Subject to provisions and
27 limitations contained in this chapter, for land purchased by owners or
28 lessors before July 18, 1984, capitalized cost of land shall be the
29 buyer's capitalized cost. For all partial or whole rate periods after
30 July 17, 1984, if the land is purchased after July 17, 1984,
31 capitalized cost shall be that of the owner of record on July 17, 1984,
32 or buyer's capitalized cost, whichever is lower. In the case of leased
33 facilities where the net invested funds are unknown or the contractor
34 is unable to provide necessary information to determine net invested
35 funds, the secretary shall have the authority to determine an amount
36 for net invested funds based on an appraisal conducted according to RCW
37 74.46.360(1). "

38 (c) In determining the variable return allowance:

(i) For the October 1, 1998, rate setting, the department, without utilizing peer groups, shall first rank all facilities in numerical order from highest to lowest according to their per resident day adjusted or audited, or both, allowable costs for nursing services, food, administration, and operational costs combined for the 1996 calendar year cost report period.

(ii) The department shall then compute the variable return allowance by multiplying the appropriate percentage amounts, which shall not be less than one percent and not greater than four percent, by the sum of the facility's nursing services, food, administrative, and operational rate components. The percentage amounts will be based on groupings of facilities according to the rankings prescribed in (c)(i) of this subsection. Those groups of facilities with lower per diem costs shall receive higher percentage amounts than those with higher per diem costs.

(d) The sum of the financing allowance and the variable return allowance shall be the return on investment rate for each facility, and shall be added to the prospective rates of each contractor as determined in sections 19 through 29 of this act.

(e) In the case of a facility that was leased by the contractor as of January 1, 1980, in an arm's-length agreement, which continues to be leased under the same lease agreement, and for which the annualized lease payment, plus any interest and depreciation expenses associated with contractor-owned assets, for the period covered by the prospective rates, divided by the contractor's total resident days, minus the property component rate allocation determined according to section 29 of this act, is more than the return on investment rate determined according to (d) of this subsection, the following shall apply:

(i) The financing allowance shall be recomputed substituting the fair market value of the assets as of January 1, 1982, as determined by the department of general administration through an appraisal procedure, less accumulated depreciation on the lessor's assets since January 1, 1982, for the net book value of the assets in determining net invested funds for the facility. A determination by the department of general administration of fair market value shall be final unless the procedure used to make such a determination is shown to be arbitrary and capricious.

(ii) The sum of the financing allowance computed under (e)(i) of this subsection and the variable allowance shall be compared to the

1 annualized lease payment, plus any interest and depreciation associated
2 with contractor-owned assets, for the period covered by the prospective
3 rates, divided by the contractor's total resident days, minus the
4 property component rate determined according to section 29 of this act.
5 The lesser of the two amounts shall be called the alternate return on
6 investment rate.

7 (iii) The return on investment rate determined according to (d) of
8 this subsection or the alternate return on investment rate, whichever
9 is greater, shall be the return on investment rate for the facility and
10 shall be added to the prospective rates of the contractor as determined
11 in sections 19 through 29 of this act.

12 (f) In the case of a facility that was leased by the contractor as
13 of January 1, 1980, in an arm's-length agreement, if the lease is
14 renewed or extended under a provision of the lease, the treatment
15 provided in (e) of this subsection shall be applied, except that in the
16 case of renewals or extensions made subsequent to April 1, 1985,
17 reimbursement for the annualized lease payment shall be no greater than
18 the reimbursement for the annualized lease payment for the last year
19 prior to the renewal or extension of the lease.

20 (2) For the purpose of calculating a nursing facility's return on
21 investment component rate, if a contractor elects to bank beds or to
22 convert banked beds to active service, under chapter 70.38 RCW, the
23 department shall use the facility's anticipated resident occupancy
24 level subsequent to the decrease or increase in licensed bed capacity.
25 However, in no case shall the department use less than eighty-five
26 percent occupancy of the facility's licensed bed capacity after banking
27 or conversion.

28 (3) Each biennium the secretary shall review the adequacy of return
29 on investment rates in relation to anticipated requirements for
30 maintaining, reducing, or expanding nursing care capacity. The
31 secretary shall report the results of a such review to the legislature
32 and make recommendations for adjustments in the return on investment
33 rates utilized in this section, if appropriate.

34 (4) The return or investment component rate allocations calculated
35 in accordance with this section shall be adjusted to the extent
36 necessary to comply with section 18 of this act. If the department
37 determines that the weighted average rate allocations for all rate
38 components for all facilities is likely to exceed the weighted average
39 total rate specified in the state biennial appropriations act, the

department shall adjust the rate allocations calculated in this section proportional to the amount by which the total weighted average rate allocations would otherwise exceed the budgeted level. Such adjustments shall only be made prospectively, not retrospectively.

NEW SECTION. Sec. 31. (1) The department may adjust component rates for errors or omissions made in establishing component rates and determine amounts either overpaid to the contractor or underpaid by the department.

(2) A contractor may request the department to adjust its component rates because of:

(a) An error or omission the contractor made in completing a cost report; or

(b) An alleged error or omission made by the department in determining one or more of the contractor's component rates.

(3) A request for a rate adjustment made on incorrect cost reporting must be accompanied by the amended cost report pages prepared in accordance with the department's written instructions and by a written explanation of the error or omission and the necessity for the amended cost report pages and the rate adjustment.

(4) The department shall review a contractor's request for a rate adjustment because of an alleged error or omission, even if the time period has expired in which the contractor must appeal the rate when initially issued, pursuant to rules adopted by the department under RCW 74.46.780. If the request is received after this time period, the department has the authority to correct the rate if it agrees an error or omission was committed. However, if the request is denied, the contractor shall not be entitled to any appeals or exception review procedure that the department may adopt under RCW 74.46.780.

(5) The department shall notify the contractor of the amount of the overpayment to be recovered or additional payment to be made to the contractor reflecting a rate adjustment to correct an error or omission. The recovery from the contractor of the overpayment or the additional payment to the contractor shall be governed by the reconciliation, settlement, security, and recovery processes set forth in this chapter and by rules adopted by the department in accordance with this chapter.

(6) Component rate adjustments approved in accordance with this section are subject to the provisions of section 18 of this act.